

Remarks

A. Pending Claims

Claims 156-157, 495-526, 528, and 531-566 have been rejected. Claims 527 and 529-530 have been objected to. Claims 156-157, 496-497, 510, 514-517, 519, 521, 526-527, 529, and 531-566 have been amended. Claims 511, 515, 522, 547, 551, and 558 have been cancelled. Claims 567-572 are new. Claims 156-157, 495-510, 512-514, 516-521, 523-546, 548-550, 552-557, and 559-572 are pending.

B. The Claims Are Definite Pursuant To 35 U.S.C. § 112 Second Paragraph

The Office Action includes a rejection of claims 514, 515-518, 550, and 551-554 under 35 U.S.C. 112 Second Paragraph as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. Applicant respectfully disagrees with these rejections.

Applicant respectfully disagrees with the Office Actions rejection of claims 514, 515-518, 550, and 551-554. To expedite prosecution, however, Applicant has amended or cancelled claims 156-157, 496-497, 510, 514-515, 519, 521, 526-527, 529, 532-533, 546, 550-551, 555, 557, 562-563, and 565.

C. The Claims Are Directed Towards Statutory Subject Matter Pursuant To 35 U.S.C. § 101

The Office Action includes a rejection of claims 157 and 531-566 under 35 U.S.C. 101 as being directed to non-statutory subject matter. Applicant respectfully disagrees with these rejections.

Applicant respectfully disagrees with the Office Actions rejection of claims 157 and 531-566. To expedite prosecution, however, Applicant has amended or cancelled claims 157 and 531-566.

D. The Claims Are Not Obvious Over Duran In View of Bradbury Pursuant To 35 U.S.C. § 103(a)

Claims 156-157, 495-496, and 531-532 were rejected under 35 U.S.C. §103(a) as obvious over U.S. Patent No. 6,491,511 to Duran et al. (“Duran”) in view of U.S. Patent Application Publication No. 2002/0007294 to Bradbury et al. (“Bradbury”). Applicant respectfully disagrees.

To reject a claim as obvious, the Examiner has the burden of establishing a *prima facie* case of obviousness. *In re Warner et al.*, 379 F.2d 1011, 154 USPQ 173, 177-178 (CCPA 1967). To establish a *prima facie* obviousness of a claimed invention, all the claim limitations must be taught or suggested by the prior art. *In re Royka*, 490 F.2d 981, 180 U.S.P.Q. 580 (C.C.P.A. 1974), MPEP § 2143.03.

Applicant respectfully submits that the Duran in view of Bradbury does not appear to teach or suggest the combination of features in claims 156-157, 495-496, and 531-532.

Amended claim 156 describes a combination of features including, but not limited to, the feature of: “use a plurality of first images to create at least a second image of the heart tissue, wherein at least a portion of the second image appears four-dimensional.” Applicant believes the amendments do not require a new search.

Amended claim 157 describes a combination of features including, but not limited to, the feature of: “using a plurality of first images to create at least a second image of the heart tissue, wherein at least a portion of the second image appears four-dimensional.” Applicant believes the amendments do not require a new search.

Applicant submits Duran in view of Bradbury does not appear to teach or suggest the combination of features in Applicant's claims, including but not limited to "use a plurality of first images to create at least a second image of the heart tissue, wherein at least a portion of the second image appears four-dimensional;" or "using a plurality of first images to create at least a second image of the heart tissue, wherein at least a portion of the second image appears four-dimensional." Applicant respectfully requests the obviousness rejection be rescinded.

Applicant submits that Duran in view of Bradbury does not appear to teach or suggest the combination of features in claims 156-157. Applicant further submits that at least some of the claims dependent on independent claims 156-157 are separately patentable over Duran in view of Bradbury.

E. The Claims Are Not Obvious Over Duran In View of Bradbury Pursuant To 35 U.S.C. § 103(a)

Claims 156-157, 495-502, 510-514, 521-526, 528, 531-538, 546-550, 557-562, and 564 were rejected under 35 U.S.C. §103(a) as obvious over Duran in view of U.S. Patent No. 5,741,215 to D'Urso ("D'Urso"). Applicant respectfully disagrees.

Applicant respectfully submits that the Duran in view of D'Urso does not appear to teach or suggest the combination of features in claims 156-157, 495-502, 510-514, 521-526, 528, 531-538, 546-550, 557-562, and 564.

Amended claim 156 describes a combination of features including, but not limited to, the feature of: "use a plurality of first images to create at least a second image of the heart tissue, wherein at least a portion of the second image appears four-dimensional." Applicant believes the amendments do not require a new search.

Amended claim 157 describes a combination of features including, but not limited to, the feature of: "using a plurality of first images to create at least a second image of the heart tissue,

wherein at least a portion of the second image appears four-dimensional.” Applicant believes the amendments do not require a new search.

Applicant submits Duran in view of D’Urso does not appear to teach or suggest the combination of features in Applicant’s claims, including but not limited to “use a plurality of first images to create at least a second image of the heart tissue, wherein at least a portion of the second image appears four-dimensional;” or “using a plurality of first images to create at least a second image of the heart tissue, wherein at least a portion of the second image appears four-dimensional.” Applicant respectfully requests the obviousness rejection be rescinded.

Applicant submits that Duran in view of D’Urso does not appear to teach or suggest the combination of features in claims 156-157. Applicant further submits that at least some of the claims dependent on independent claims 156-157 are separately patentable over Duran in view of D’Urso.

F. Allowable Subject Matter

Claims 515-518, 527, 529-530, 551-554, 563, and 565-566 are objected to as being dependent on a rejected base claim. The Office Action states that claims 515-518, 527, 529-530, 551-554, 563, and 565-566 would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Claim 156 includes features from objected to dependent claim 515. As such, Applicant submits that claim 156 and the claims dependent thereon, are in condition for allowance.

Claim 157 includes features from objected to dependent claim 551. As such, Applicant submits that claim 157 and the claims dependent thereon, are in condition for allowance.

Claim 567 includes features from objected to dependent claim 527. As such, Applicant submits that claim 567 and the claims dependent thereon, are in condition for allowance.

Claim 568 includes features from objected to dependent claim 529. As such, Applicant submits that claim 568 and the claims dependent thereon, are in condition for allowance.

Claim 569 includes features from objected to dependent claim 530. As such, Applicant submits that claim 569 and the claims dependent thereon, are in condition for allowance.

Claim 570 includes features from objected to dependent claim 563. As such, Applicant submits that claim 570 and the claims dependent thereon, are in condition for allowance.

Claim 571 includes features from objected to dependent claim 565. As such, Applicant submits that claim 571 and the claims dependent thereon, are in condition for allowance.


Claim 572 includes features from objected to dependent claim 566. As such, Applicant submits that claim 572 and the claims dependent thereon, are in condition for allowance.

G. Conclusion

Applicant submits that the claims are in condition for allowance. Favorable reconsideration is respectfully requested.

Applicant respectfully requests a three-month extension of time. A fee authorization form has been submitted to cover fees associated with a three-month extension of time, as well as fees associated with submission of additional claims. If any further extension of time is required, Applicant hereby requests the appropriate extension of time. If any further fees are required, or have been overpaid, please appropriately charge, or credit, those fees to Meyertons, Hood, Kivlin, Kowert & Goetzel, P.C. Deposit Account Number 50-1505/5838-00205/EBM.

Respectfully submitted,



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Date: April 30, 2009